



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2020-0541; FRL-10022-97-Region 8]

Approval and Promulgation of Implementation Plans; Utah; R307-204 Emission

Standards: Smoke Management

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving state implementation plan (SIP) revisions submitted by State of Utah on November 5, 2019. The revisions amend R307-204 to meet the requirements set forth in Utah's 2019 House Bill (H.B.) 155. This action is being taken under section 110 of the Clean Air Act (CAA).

DATES: This rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2020-0541. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Amrita Singh, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD-QP, 1595 Wynkoop Street, Denver, Colorado, 80202-1129, (303) 312-6103, singh.amrita@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we,” “us” or “our” is used, we mean the EPA.

I. Background

On February 25, 2021 (86 FR 11687), the EPA proposed approval of the revisions to the Utah Division of Administrative Rules, specifically: R307-204-1. Purpose and Goals; R307-204-2. Applicability; R307-204-3. Definitions; R307-204-4. General Requirements; R307-204-5. Burn Schedule; R307-204-6. Small Prescribed Fires (de minimis); R307-204-7. Small Prescribed Pile Fires (de minimis); R307-204-8. Large Prescribed Fires; R307-204-9. Large Prescribed Pile Fires; and R307-204-10. Requirements for Wildland Fire Use events that were submitted by the State on November 5, 2019.

The rule revisions for R307-204 were submitted to align with the recent 2019 H.B. 155 which removes outdated terminology and language regarding adjusting fire emission factors and combines sections R307-204-6. Small Prescribed Fires (de minimis), R307-204-7. Small Prescribed Pile Fires (de minimis), R307-204-8. Large Prescribed Fires, and R307-204-9. Large Prescribed Pile Fires to reduce redundancies.

II. Response to Comments

The comment period for our February 25, 2021 (86 FR 11687) proposed rule was open for 30 days. The EPA did not receive any comments.

III. Final Action

For the reasons stated in our February 25, 2021 proposed rule, the EPA is finalizing approval of SIP revisions submitted by the State of Utah on November 5, 2019. EPA is approving:

- Revisions to sections: R307-204-1. Purpose and Goals; R307-204-2. Applicability; R307-204-3. Definitions; R307-204-4. General Requirements; and R307-204-5. Burn Schedule.

- Revisions to combine R307-204-6. Small Prescribed Fires (de minimis) and R307-204-7. Small Prescribed Pile Fires (de minimis), under R307-204-6. Small Prescribed Fires (de minimis) to streamline and reduce redundancies.

- Revisions to combine R307-204-8. Large Prescribed Fires and R307-204-9. Large Prescribed Pile Fires, under R307-204-7, and to retitle R307-204-7 to “Large Prescribed Fires,” which will streamline and reduce redundancies.

- Removal of R307-204-10. Requirements for Wildland Fire Use events. This deletion is removing outdated smoke policy terminology, such as, wildland fire use.

The revisions for R307-204 meet the applicable CAA requirements and contains smoke management requirements for land managers within the State of Utah as required by 40 CFR 51.309(d)(6).

IV. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is incorporating by reference R307-204-1; R307-204-2; R307-204-3; R307-204-4; R307-204-5; combination of R307-204-6 and R307-204-7, under R307-204-6 for streamlining; combination of R307-204-8 and R307-204-9, under R307-204-7; and the removal of R307-204-10 due to outdated information. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.¹

¹ 62 FR 27968 (May 22, 1997).

V. Statutory and Executive Orders Review

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule

or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: April 28, 2021.

Debra H. Thomas,
Acting Regional Administrator,
Region 8.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart TT—Utah

2. In §52.2320, the table in paragraph (c) is amended by:

- a. Revising the entries for “R307-204-01”, “R307-204-02”, “R307-204-03”, “R307-204-04”, “R307-204-05”, “R307-204-06”, and “R307-204-07”.
- b. Removing the entries for “R307-204-08”, “R307-204-09”, and “R307-204-10”.

The revisions read as follows:

§52.2320 Identification of plan.

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(c) * * *

Rule No.	Rule title	State effective date	Final rule citation, date	Comments
* * * *				
R307-204. Emission Standards: Smoke Management				
R307-204-01	Purpose and Goals	11/5/2019	[insert Federal Register citation], [insert date of publication in the Federal Register]	
R307-204-02	Applicability	11/5/2019	[insert Federal Register citation], [insert date of publication in the Federal Register]	
R307-204-03	Definitions	11/5/2019	[insert Federal Register citation], [insert date of publication in the Federal Register]	
R307-204-04	General Requirements	11/5/2019	[insert Federal Register citation], [insert date of publication in the Federal Register]	
R307-204-05	Burn Schedule	11/5/2019	[insert Federal Register citation], [insert date of publication in the Federal Register]	

R307-204-06	Small Prescribed Fires (de minimis)	11/5/2019	[insert Federal Register citation], [insert date of publication in the Federal Register]	
R307-204-07	Large Prescribed Fires	11/5/2019	[insert Federal Register citation], [insert date of publication in the Federal Register]	
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[FR Doc. 2021-09240 Filed: 5/7/2021 8:45 am; Publication Date: 5/10/2021]